RECENT CASE NOTES

ASSIGNMENT—ASSIGNMENT OF HEIR'S EXPECTANCY—ANCESTOR UNITED IN CONVEYANCE.—A deed purported to convey, for ample consideration given to the grantor, an expectancy in an undivided sixth of real estate then owned by the grantor's mother, from whom the grantor expected to inherit the interest as one of her six children. The mother united in the conveyance in order to secure the interest to the grantee after her death. The deed contained a covenant of warranty by the grantor but not by his mother. *Held,* that the deed was unenforceable as against the son but was valid as a conveyance by the mother. Clay, J., *dissenting*. *Snyder v. Snyder* (1921, Ky.) 235 S. W. 743.

At common law any assignment or conveyance by an heir of his expected interest in property, made during the lifetime of the ancestor, was void. *Bayler v. Commonwealth* (1861) 40 Pa. 37; 33 L. R. A. 266, note. In some instances, however, such transfers were enforced through the doctrine of estoppel arising from covenants contained in the deed. *Johnson v. Johnson* (1902) 170 Mo. 34, 70 S. W. 241. Courts of equity have generally enforced such transfers as contracts to convey the legal estate or interest when it has ceased to be an expectancy and has become a vested estate. *Thornton v. Louch* (1921) 297 Ill. 204, 130 N. E. 467; *Richey v. Richey* (1920, Iowa) 179 N. W. 830; Ann. Cas. 1916 E, 1241, note. In Kentucky the law is well settled that such a transfer is invalid in both law and equity and that the doctrine of estoppel will not be applied. *Hunt v. Smith* (1921) 191 Ky. 443, 230 S. W. 936. Hence it was impossible in the instant case to give the intended effect to the instrument. This, however, is an insufficient basis for giving it the uncontemplated effect of conveying a one-sixth interest from the mother to the grantee. It was the mother's desire that her six children share her entire estate equally at her decease. It unquestionably was not her intention to convey by the instrument an undivided sixth of her land, leaving only five-sixths to be divided equally at her death among her *six* children. The court allowed the son who had deeded away his interest to share further in the division of the estate at the death of the mother, and treated the consideration given him for his conveyance as an advancement from his mother's estate, a result not within the contemplation of the parties to the deed or to the suit. The son intended to part with his entire interest in his mother's estate and the fact that he received the consideration and bound himself by the covenant of warranty clearly indicates that it was he only who was acting as grantor. It is the rule in many jurisdictions that for a transfer of an expectancy to be valid, it must be made with the knowledge and consent of the ancestor. *Stevens v. Stevens* (1914) 181 Mich. 438, 148 N. W. 225. The mother took part in the transaction with probably some such idea in mind. The court, in attempting to uphold the deed as a valid conveyance of some sort, arrived at an anomalous result which only serves to illustrate the justice of the rule prevailing in most jurisdictions whereby the conveyance of the expectancy is held to be valid.

BANKRUPTCY—PREFERENCES—COMPLETION OF EQUITABLE LIEN WITHIN FOUR-MONTHS PERIOD.—A Maryland corporation, about to liquidate, agreed to transfer its vessels to the defendant. In return, he agreed to give it $73,000, with which to pay its debts, and to organize a new corporation in Delaware to which he would redeliver the vessels upon the execution by it of a mortgage of $100,000 upon the vessels. Upon redelivery to it, the Delaware corporation adopted a resolution authorizing the $100,000 mortgage, but the mortgage was not actually given and recorded until within four months of the filing of a voluntary petition in